

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, LOCAL 14, AFL-CIO,
Petitioner,

vs.

CLARK COUNTY SCHOOL DISTRICT, and
EDUCATION SUPPORT EMPLOYEES
ASSOCIATION,
Respondents.

ITEM NO. 520F

CASE NO. A1-045735

ORDER

EDUCATION SUPPORT EMPLOYEES
ASSOCIATION,
Counter Claimant,

vs.

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 14, AFL-CIO, and
CLARK COUNTY SCHOOL DISTRICT,
Respondents.

For Counter Claimant:

Michael W. Dyer, Esq.
Sandra G. Lawrence, Esq.
Dyer, Lawrence, Penrose, Flaherty & Donaldson

For Respondents:

Lewis N. Levy, Esq.
Levy, Stern & Ford

C.W. Hoffman, Esq.
Clark County School District

Previously in this matter, the Board ordered an election to determine which labor organization, if any, represented the support employees of the Clark County School District. The parties have been unable to agree to all provisions for such an election agreement and the Board's Commissioner made rulings on three matters which could not be agreed upon; namely:

(1) Majority Status plus one. It was the determination of the Commissioner that the majority status plus one, shall be based on the number of employees in the bargaining unit, ref: NRS 288.160(4) & (5) and NAC 288.110 (9)(d).

1 (2) Verified Membership List. The determination of the Commissioner was that
2 should Teamsters Local 14 receive the proper amount of ballots to be declared the representative,
3 they then should submit a Verified Membership List within 48 hours of the request to the
4 Employer.

5 (3) Campaigning. The determination by the Commissioner was that there would be
6 no distribution of campaign literature on the school property at any time. There would be no
7 restriction on freedom of speech regarding the election during the non-work hours.

8 Furthermore, in its appeal to the Board, Local 14 points out that the ballot is improperly
9 limited to a choice between Local 14 and ESEA, and does not include a third option that rejects
10 both parties.

11 It is the decision of the Board that:

12 The Commissioner is upheld on item #3; namely, neither Local 14 nor ESEA may have
13 access to District property for campaign purposes. However, nothing prevents either party's
14 representatives from handing out literature in public areas like sidewalks and driveways so long
15 as orderly ingress and egress are not disrupted. Additionally, employees may exchange literature
16 on school property, but only during non working time in non working areas.

17 On the issue related to a verified membership list, the Board determines that no such list
18 is required subsequent to an election, the outcome of which is certified by this Board. A Board
19 certification is sufficient evidence that an organization does represent the subject employees
20 pursuant to NRS 288.160(4).

21 The Board notes that Nevada is a right-to-work state and that the NAC 288.110(5)
22 provides for the option of "non-union" to be placed on an election ballot. If this option is not
23 provided to employees in a representation election, it is possible some number of bargaining unit
24 members will not vote. The Board concludes employees are entitled to vote in an election which
25 allows them to select from all possible options. Therefore, "non-union" shall be placed on the
26 ballot for the ordered election.

27 Lastly, although the Legislature does not appear to have specifically addressed whether
28 the majority is of "votes cast" or "of members of the bargaining unit" in NRS 288.160(4), NAC

1 288.160(9)(d) does provide clear interpretation that a majority of the employees within the
2 particular "bargaining unit" is required. Consequently, the Board will require the votes of a 50%
3 plus one of the employees in the bargaining unit to be obtained by an organization before it will
4 be certified as representing that unit.

5 IT IS SO ORDERED.

6 DATED this 23rd day of January 2003.

7 LOCAL GOVERNMENT EMPLOYEE-
8 MANAGEMENT RELATIONS BOARD

9
10 BY: 
11

JOHN E. DICKS, ESQ., Chairman

12
13 BY: 
14

JANET TROST, ESQ., Vice-Chairman